

AMENDED IN ASSEMBLY FEBRUARY 3, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1577**

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**Introduced by Assembly Member Eggman**  
*(Coauthors: Assembly Members Brough, Chávez, Dodd, Gallagher,*  
*Eduardo Garcia, Mathis, and Salas)*  
*(Coauthor: Senator Galgiani)*

January 4, 2016

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An act to amend Sections 17053.88 and 23688 of the Revenue and Taxation Code, and to amend Section 18995 of, and to amend the heading of Chapter 14.5 (commencing with Section 18995) of Part 6 of Division 9 of, the Welfare and Institutions Code, relating to food banks.

LEGISLATIVE COUNSEL'S DIGEST

AB 1577, as amended, Eggman. Income taxes: credits: food bank donations.

(1) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including, for taxable years beginning on or after January 1, 2012, and before January 1, 2017, a credit for qualified taxpayers, defined as the person responsible for planting a crop, managing the crop, and harvesting the crop from the land, in an amount equal to 10% of the cost that would otherwise be included in, or required to be included in, inventory costs, as specified under federal law, with respect to the donation of fresh fruits or fresh vegetables to a food bank located in California.

This bill, under both laws, would expand the credit to apply to the donation of qualified donation items, defined as raw ~~or processed~~ agricultural products *or processed foods*. The bill would expand the

definition of qualified taxpayer to also include the person responsible for growing or raising a qualified donation item, or harvesting, packing, or processing a qualified donation item. The bill would modify the credit amount to instead equal ~~20%~~ 15% of the qualified value, as defined, of the qualified donation items, but not less than an amount that would otherwise be calculated and allowed under existing law. The bill would extend the operation of the credit to taxable years before January 1, ~~2024~~, 2022, *and would require it to be claimed on a timely filed return.* The bill would make various conforming changes and would also make a nonsubstantive change to the personal income tax provision.

(2) Existing law requires the State Department of Social Services to establish and administer the State Emergency Food Assistance Program (SEFAP), to provide food and funding for the provision of emergency food to food banks, as provided. Existing law creates the State Emergency Food Assistance Program Account and would, upon appropriation by the Legislature, would allocate the moneys in the account to SEFAP and require that those moneys be used for the purchase, storage, and transportation of food grown or produced in California and for the department's administrative costs.

This bill would rename the State Emergency Food Assistance Program (SEFAP) as the CalFood Program and would rename the State Emergency Food Assistance Program Account as the CalFood Account. The bill would make other conforming changes in this regard.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 17053.88 of the Revenue and Taxation  
2     Code is amended to read:  
3     17053.88. (a) In the case of a qualified taxpayer that donates  
4     to a food bank any qualified donation items that are accepted by  
5     that food bank located in California under Chapter 5 (commencing  
6     with Section 58501) of Part 1 of Division 21 of the Food and  
7     Agricultural Code, for taxable years beginning on or after January  
8     1, 2012, and before January 1, ~~2024~~, 2022, there shall be allowed,  
9     without regard to the taxpayer's method of accounting, as a credit  
10    against the "net tax" (as defined by Section 17039), an amount  
11    equal to ~~20~~ 15 percent of the qualified value of the qualified

1 donation items, but in no event shall this amount be less than the  
2 amount that otherwise would have been calculated and allowed  
3 under this section as added by Chapter 503 of the Statutes of 2011.

4 (b) For purposes of this section, the following definitions shall  
5 apply:

6 (1) “Qualified donation item” means fresh fruits or fresh  
7 vegetables and the following raw *agricultural products* or  
8 ~~processed agricultural products~~ *foods*:

9 (A) All of the following:

10 (i) “Fruits, nuts, or vegetables” as defined in Section 42510 of  
11 the Food and Agricultural Code.

12 (ii) “Meat food product” as defined in Section 18665 of the  
13 Food and Agricultural Code.

14 (iii) “Poultry” as defined in Section 18675 of the Food and  
15 Agricultural Code.

16 (iv) “Eggs” as defined in Section 75027 of the Food and  
17 Agricultural Code.

18 (v) “Fish” as defined in Section 58609 of the Food and  
19 Agricultural Code.

20 (B) All of the following food as defined in Section 109935 of  
21 the Health and Safety Code:

22 (i) Rice.

23 (ii) Beans.

24 (iii) Fruit, nuts, and vegetables in canned, frozen, dried,  
25 dehydrated, and ~~100 percent~~ *100-percent* juice forms.

26 ~~(iv) Cheese, milk (cow or goat), yogurt, butter, dehydrated milk,~~  
27 ~~and infant formula from licensed sources.~~

28 *(iv) Any cheese, milk, yogurt, butter, or dehydrated milk meeting*  
29 *the requirements in Division 15 (commencing with Section 32501)*  
30 *of the Food and Agricultural Code.*

31 *(v) Infant formula subject to Section 114094.5 of the Health*  
32 *and Safety Code.*

33 ~~(v)~~

34 (vi) Vegetable oil and olive oil.

35 ~~(vi) Shelf-stable ready-to-eat products, limited to soup, pasta~~  
36 ~~sauce, ketchup, salsa, and salad dressings.~~

37 ~~(vii) Bread, pasta, or cereal.~~

38 *(vii) Soup, pasta sauce, and salsa.*

39 *(viii) Bread and pasta.*

40 ~~(viii)~~

1 (ix) Canned meats and canned seafood.

2 (2) “Qualified taxpayer” means the person responsible for  
3 planting a crop, managing the crop, harvesting the crop from land,  
4 growing or raising a qualified donation item, or harvesting,  
5 packing, or processing a qualified donation item.

6 (3) “Qualified value” means either of the following:

7 (A) The qualified value shall be calculated by using the weighted  
8 average wholesale sale price based on the qualified taxpayer’s  
9 total *like grade* wholesale sales of the donated item sold within  
10 the calendar month of the qualified taxpayer’s donation.

11 (B) If no wholesale sales of the donated item have occurred in  
12 the calendar month of the qualified taxpayer’s donation, the  
13 qualified value shall be equal to the nearest regional wholesale  
14 market price for the calendar month of the donation based upon  
15 the same grade products as published by the United States  
16 Department of Agriculture’s Agricultural Marketing Service, or  
17 its successor. ~~This subparagraph does not apply if the United States~~  
18 ~~Department of Agriculture’s Agricultural Marketing Service or its~~  
19 ~~successor requires payment for use of their services.~~

20 (c) If the credit allowed by this section is claimed by the  
21 qualified taxpayer, any deduction otherwise allowed under this  
22 part for that amount of the cost paid or incurred by the qualified  
23 taxpayer that is eligible for the credit shall be reduced by the  
24 amount of the credit provided in subdivision (a).

25 (d) The donor shall provide to the food bank the qualified value  
26 of the donation items and information regarding the origin of where  
27 the donation items were grown, processed, or both grown and  
28 processed. Upon receipt and acceptance of the donation items, the  
29 food bank shall provide a certificate to the donor. The certificate  
30 shall contain a statement signed and dated by a person authorized  
31 by the food bank that the donation items are accepted under  
32 Chapter 5 (commencing with Section 58501) of Part 1 of Division  
33 21 of the Food and Agricultural Code. The certificate shall also  
34 contain the type, grade, and quantity of items donated, the name  
35 of the donor or donors, the name and address of the food bank,  
36 and, as provided by the donor, the origin of the donated items, and  
37 the qualified value of the donated items, as described in subdivision  
38 (a). Upon the request of the Franchise Tax Board, the qualified  
39 taxpayer shall provide a copy of the certification to the Franchise  
40 Tax Board.

1     ~~(e)~~ *The credit allowed by this section may be claimed only on*  
2 *a timely filed return.*

3     ~~(e)~~

4     ~~(f)~~ In the case where the credit allowed by this section exceeds  
5 the “net tax,” the excess may be carried over to reduce the “net  
6 tax” in the following year, and for the six succeeding years if  
7 necessary, until the credit has been exhausted.

8     ~~(f)~~

9     ~~(g)~~ Using the information available to the Franchise Tax Board  
10 from the certificates required under subdivision (d) and subdivision  
11 (d) of Section 23688, the Franchise Tax Board shall report to the  
12 Legislature on or before December 1, 2014, and each December  
13 1 thereafter until the inoperative date specified in paragraph (2)  
14 of subdivision ~~(g)~~; ~~(h)~~, regarding the utilization of the credit  
15 authorized by this section and Section 23688. The Franchise Tax  
16 Board shall also include in the report the estimated value of the  
17 qualified donation items, the origin of the qualified donation items,  
18 and the month the donation was made.

19     ~~(g)~~

20     ~~(h)~~ (1) A report required to be submitted pursuant to subdivision  
21 ~~(f)~~ (g) shall be submitted in compliance with Section 9795 of the  
22 Government Code.

23     (2) The requirement for submitting a report imposed under  
24 subdivision ~~(f)~~ (g) is inoperative on January 1, ~~2023~~, 2021, pursuant  
25 to Section 10231.5 of the Government Code.

26     ~~(h)~~

27     ~~(i)~~ This section shall be repealed on December 1, ~~2024~~, 2022.

28     SEC. 2. Section 23688 of the Revenue and Taxation Code is  
29 amended to read:

30     23688. (a) In the case of a qualified taxpayer that donates to  
31 a food bank any qualified donation items that are accepted by that  
32 food bank located in California under Chapter 5 (commencing  
33 with Section 58501) of Part 1 of Division 21 of the Food and  
34 Agricultural Code, for taxable years beginning on or after January  
35 1, 2012, and before January 1, ~~2024~~, 2022, there shall be allowed,  
36 without regard to the taxpayer’s method of accounting, as a credit  
37 against the “tax” (as defined by Section 23036), an amount equal  
38 to ~~20~~ 15 percent of the qualified value of the qualified donation  
39 items, but in no event shall this amount be less than the amount

1 that otherwise would have been calculated and allowed under this  
2 section as added by Chapter 503 of the Statutes of 2011.

3 (b) For purposes of this section, the following definitions shall  
4 apply:

5 (1) “Qualified donation item” means fresh fruits or fresh  
6 vegetables and the following raw *agricultural products* or  
7 ~~processed agricultural products~~ *foods*:

8 (A) All of the following:

9 (i) “Fruits, nuts, or vegetables” as defined in Section 42510 of  
10 the Food and Agricultural Code.

11 (ii) “Meat food product” as defined in Section 18665 of the  
12 Food and Agricultural Code.

13 (iii) “Poultry” as defined in Section 18675 of the Food and  
14 Agricultural Code.

15 (iv) “Eggs” as defined in Section 75027 of the Food and  
16 Agricultural Code.

17 (v) “Fish” as defined in Section 58609 of the Food and  
18 Agricultural Code.

19 (B) All of the following food as defined in Section 109935 of  
20 the Health and Safety Code:

21 (i) Rice.

22 (ii) Beans.

23 (iii) Fruit, nuts, and vegetables in canned, frozen, dried,  
24 dehydrated, and ~~100 percent~~ *100-percent* juice forms.

25 ~~(iv) Cheese, milk (cow or goat), yogurt, butter, dehydrated milk,~~  
26 ~~and infant formula from licensed sources.~~

27 *(iv) Any cheese, milk, yogurt, butter, or dehydrated milk meeting*  
28 *the requirements in Division 15 (commencing with Section 32501)*  
29 *of the Food and Agricultural Code.*

30 *(v) Infant formula subject to Section 114094.5 of the Health*  
31 *and Safety Code.*

32 ~~(v)~~

33 (vi) Vegetable oil and olive oil.

34 ~~(vi) Shelf-stable ready-to-eat products, limited to soup, pasta~~  
35 ~~sauce, ketchup, salsa, and salad dressings.~~

36 ~~(vii) Bread, pasta, or cereal.~~

37 *(vii) Soup, pasta sauce, and salsa.*

38 *(viii) Bread and pasta.*

39 ~~(viii)~~

40 (ix) Canned meats and canned seafood.

1 (2) “Qualified taxpayer” means the person responsible for  
2 planting a crop, managing the crop, harvesting the crop from land,  
3 growing or raising a qualified donation item, or harvesting,  
4 packing, or processing a qualified donation item.

5 (3) “Qualified value” means either of the following:

6 (A) The qualified value shall be calculated by using the weighted  
7 average wholesale sale price based on the qualified taxpayer’s  
8 total *like grade* wholesale sales of the donated item sold within  
9 the calendar month of the qualified taxpayer’s donation.

10 (B) If no wholesale sales of the donated item have occurred in  
11 the calendar month of the qualified taxpayer’s donation, the  
12 qualified value shall be equal to the nearest regional wholesale  
13 market price for the calendar month of the donation based upon  
14 the same grade products as published by the United States  
15 Department of Agriculture’s Agricultural Marketing Service, or  
16 its successor. ~~This subparagraph does not apply if the United States~~  
17 ~~Department of Agriculture’s Agricultural Marketing Service or its~~  
18 ~~successor requires payment for use of their services.~~

19 (c) If the credit allowed by this section is claimed by the  
20 qualified taxpayer, any deduction otherwise allowed under this  
21 part for that amount of the cost paid or incurred by the qualified  
22 taxpayer that is eligible for the credit shall be reduced by the  
23 amount of the credit provided in subdivision (a).

24 (d) The donor shall provide to the food bank the qualified value  
25 of the donation items and information regarding the origin of where  
26 the donation items were grown, processed, or both grown and  
27 processed. Upon receipt and acceptance of the donation items, the  
28 food bank shall provide a certificate to the donor. The certificate  
29 shall contain a statement signed and dated by a person authorized  
30 by the food bank that the donation items are accepted under  
31 Chapter 5 (commencing with Section 58501) of Part 1 of Division  
32 21 of the Food and Agricultural Code. The certificate shall also  
33 contain the type, grade, and quantity of items donated, the name  
34 of the donor or donors, the name and address of the food bank,  
35 and, as provided by the donor, the origin of the donated items, and  
36 the qualified value of the donated items, as described in subdivision  
37 (a). Upon the request of the Franchise Tax Board, the qualified  
38 taxpayer shall provide a copy of the certification to the Franchise  
39 Tax Board.

1     (e) *The credit allowed by this section may be claimed only on*  
2     *a timely filed return.*

3     ~~(e)~~

4     (f) In the case where the credit allowed by this section exceeds  
5     the “tax,” the excess may be carried over to reduce the “tax” in  
6     the following year, and for the six succeeding years if necessary,  
7     until the credit has been exhausted.

8     ~~(f)~~

9     (g) This section shall be repealed on December 1, ~~2024~~, 2022.

10    SEC. 3. The heading of Chapter 14.5 (commencing with  
11    Section 18995) of Part 6 of Division 9 of the Welfare and  
12    Institutions Code is amended to read:

13  
14                   CHAPTER 14.5. THE CALFOOD PROGRAM

15  
16    SEC. 4. Section 18995 of the Welfare and Institutions Code is  
17    amended to read:

18    18995. (a) On and after January 1, 2017, the State Emergency  
19    Food Assistance Program (SEFAP), administered by the State  
20    Department of Social Services, shall be renamed as the “CalFood  
21    Program.” The CalFood Program shall provide food and funding  
22    for the provision of emergency food to food banks established  
23    pursuant to the federal Emergency Food Assistance Program (7  
24    C.F.R. Parts 250 and 251) whose ongoing primary function is to  
25    facilitate the distribution of food to low-income households.

26    (b) The CalFood Account is hereby established in the  
27    Emergency Food Assistance Program Fund established pursuant  
28    to Section 18852 of the Revenue and Taxation Code, and may  
29    receive federal funds and voluntary donations or contributions.

30    (c) Notwithstanding Section 18853 of the Revenue and Taxation  
31    Code, the following shall apply:

32    (1) All moneys received by the CalFood Account shall, upon  
33    appropriation by the Legislature, be allocated to the State  
34    Department of Social Services for allocation to the CalFood  
35    Program and, with the exception of those contributions made  
36    pursuant to Section 18851 of the Revenue and Taxation Code and  
37    funds received through Parts 250 and 251 of Title 7 of the Code  
38    of Federal Regulations, shall be used for the purchase, storage,  
39    and transportation of food grown or produced in California. Storage



1 and transportation expenditures shall not exceed 10 percent of the  
2 CalFood Program fund's annual budget.  
3 (2) Notwithstanding paragraph (1), funds received by the  
4 CalFood Account shall, upon appropriation by the Legislature, be  
5 allocated to the State Department of Social Services for allocation  
6 to the CalFood Program as described in paragraph (1), and shall,  
7 in part, be used to pay for the department's administrative costs  
8 associated with the administration of the CalFood Program.

O